

Message Text

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PAGE 01 STATE 059833

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INR-07 INT-05 L-03 NSAE-00 NSC-05 OMB-01 PM-04

USIA-15 SAM-01 OES-05 SP-02 SS-15 STR-04 /106 R

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TO USMISSION OECD PARIS PRIORITY

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E.O. 11652: N/A

TAGS: EFIN

SUBJECT: DRAFT MEMORANDUM ON TAXATION OF OIL ACTIVITIES
OF WORKING PARTY 7

FOR JOHN TANNER

1. PLEASE PASS TO SECRETARIAT (HACKETT) FOLLOWING RECOMMENDED CHANGES TO DRAFT TEXT MAILED TO TREASURY 2/13/76:

2. PAGE 9, PARAGRAPH 6 - AT END OF SECOND SENTENCE INSERT:
"WHICH RESULTED IN HIGHER MARKET PRICES."

3. PAGE 9, PARAGRAPH 7 - AFTER 5TH SENTENCE ENDING WITH
"BARREL INSERT": "(IN THE MEANTIME, MARKET PRICES HAD ALSO
QUADRUPLED AS A RESULT OF PRODUCTION CUTBACKS AND CONTINUED
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RISING DEMAND.)"

4. PAGE 12, PARAGRAPH UNDER HEADING A - REDRAFT OR DELETE FIRST CLAUSE OF SECOND SENTENCE WHICH IS UNCLEAR.

5. PAGE 18, LAST SENTENCE - CHANGE "SET AT" TO "EQUAL TO."

6. PAGE 38, FIRST SENTENCE - REVISE FIRST SENTENCE TO READ AS FOLLOWS: "THUS, THE POSTED PRICE SYSTEM DID NOT REFLECT THE MARKET SITUATION, RATHER IT SERVED AS A MEANS TO STABILIZE THE PRODUCER COUNTRIES' REVENUES DESPITE THE DOWNWARD PRESSURE ON MARKET PRICES."

7. PAGE 38 - DELETE REPETITIVE LANGUAGE IN SECOND FROM LAST PARAGRAPH.

8. PAGES 43 AND 44 - REVISE PARAGRAPH C. 2 TO READ AS FOLLOWS:

"2. AS DESCRIBED IN CHAPTER 3, OPEC COUNTRIES HAVE BASED THE TAXATION OF INCOME FROM PRODUCTION ACTIVITIES ON A SYSTEM OF POSTED PRICES. BEFORE 1973, POSTED PRICES GENERALLY WERE SUBSTANTIALLY ABOVE MARKET PRICES. THIS PHENOMENON GAVE RISE TO BOOK LOSSES WITHIN AN INTEGRATED OIL ENTERPRISE AS ILLUSTRATED BY THE FOLLOWING EXAMPLE 6.

"THE PARENT COMPANY MIGHT SET UP SEVERAL SUBSIDIARIES TO CARRY OUT THE VARIOUS STAGES OF THE INTEGRATED OPERATIONS. SUBSIDIARY 1, RESIDENT IN COUNTRY A, MIGHT PURCHASE OIL FROM A PRODUCING SUBSIDIARY 2 IN COUNTRY B AT THE POSTED PRICE AND RESELL IT TO A MARKETING SUBSIDIARY 3 AT THE PREVAILING MARKET PRICE. THIS WOULD CREATE A BOOK LOSS TO SUBSIDIARY 1.

"UNDER A TRANSFER PRICING SYSTEM WHICH STRINGENTLY APPLIES THE ARM'S LENGTH PRINCIPLE, AS EMBODIED IN ARTICLE 9 OF THE OECD MODEL DRAFT, SUCH BOOK LOSSES WOULD NOT BE RECOGNIZED FOR TAX PURPOSES. HOWEVER, IN SOME CASES THE COUNTRY OF RESIDENCE OF THE SUBSIDIARY "INCURRING" SUCH LOSSES (COUNTRY A IN THE EXAMPLE ABOVE) HAS UNCLASSIFIED

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ACKNOWLEDGED SUCH LOSSES SO THAT THEY COULD BE SET OFF AGAINST PROFITS (FROM BOTH OIL AND NON-OIL ACTIVITIES) THAT WOULD OTHERWISE BE TAXABLE BY SUCH COUNTRY OF RESIDENCE. IN THIS REGARD, THE U.K. HAS RECENTLY TAKEN REMEDIAL ACTION BY STRENGTHENING EXISTING TRANSFER PRICING RULES AND BY ERECTING A "RING FENCE" AROUND INCOME AND LOSSES FROM OIL ACTIVITIES.

"EVEN THOUGH THE GAP BETWEEN MARKET PRICES AND POSTED PRICES HAS NARROWED SINCE 1973, TAX AUTHORITIES MAY FACE SIMILAR PROBLEMS IN THE FUTURE. FOR EXAMPLE, PROBLEMS MAY ARISE IF OIL ENTERPRISES USE TRANSFER PRICES ABOVE THEIR AVERAGE COST OF CRUDE OIL (TAX PAID COST FOR THE EQUITY PORTION AND BUY-BACK PRICE FOR THE PARTICIPATION PORTION)."

9. PAGE 47 - TYPOGRAPHICAL ERROR IN LINE 5. SECOND FULL PARAGRAPH IS UNCLEAR.

10. PAGE 48 - DELETE "MINERAL" FROM LINE 10. TYPO IN LAST SENTENCE OF 3(B).

11. PAGE 50 - CHANGE "DERIVATES" TO DERIVATIVES" NEAR MIDDLE OF PAGE.

12. PAGE 52 - SECOND SENTENCE OF SECOND PARAGRAPH (BEGINNING "IT MAY ALSO BE ASSUMED...") IS UNCLEAR.

13. PAGE 53 - DELETE "MIN ERAL" IN PARAGRAPH 3.

14. PAGE 10 - REVISE TABLE 1 TO READ AS FOLLOWS:

TOTAL, PRINCIPAL EXPORTERS.....33,155 60 40

OPEC COUNTRIES.....30,480 62 38

ALGERIA..... 960 75 25

ECUADOR..... 175 25 75

INDONESIA..... 1375 65 35

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IRAN..... 6020 96 4

IRAQ..... 1975 75 25

KUWAIT..... 2545 60 40

LIBYA..... 1520 65 35

NIGERIA..... 2255 55 45

QATAR..... 520 60 40

SAUDI ARABIA..... 8480 60 40

UNITED ARAB EMIRATES..... 1680 50 50

ABU DHABI..... 1410 60 40

DUBAI..... 240 60 40

SHARJAH..... 30 60 40

VENEZUELA..... 2975 3 97

OTHER..... 2675 27 73

ANGOLA/CABINDA..... 170 4 96

MALAYSIA-BRUNEI..... 320 25 75

CANADA..... 1695 25 75

GABON..... 200 25 75

OMAN..... 290 60 40

SOURCE: PUBLISHED DATA COMPILED BY U.S. TREASURY. INGERSOLL

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